

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.34340 of 2017

Arising Out of PS. Case No.-357 Year-2016 Thana- ROHTAS COMPLAINT CASE District-
Rohtas

=====

Rabindra Kumar S/o Shiv Murat Gond, R/o Village- Akorhi, P.S.- Mohania,
District- Kaimur Bhabua at present Uttarpara Kotrang, Porsoa, P.O.-
Municipality, B.M. Saha Road, House No. 155/2, District- Hooghly, West
Bengal.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Nitu Kumari W/o Rabindra Kumar, D/o Late Rajendra Prasad Gond, R/o
Village & P.O.- Akorhi, P.S.- Mohania, District- Kaimur at Bhabua,
presently residing at Mohalla- Khilanganj, P.S.- Sasaram Town, District-
Rohtas.

... .. Opposite Party/s

=====

Appearance :

For the Petitioner/s	:	Mr. Narendra Kumar, Advocate Mr. Sada Nand Roy, Advocate
For the State	:	Mr. Upendra Kumar, APP
For the O.P. No.2	:	None

=====

CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL ORDER

8 23-08-2024 The present petition has been preferred under Section

482 Cr.PC against the impugned order dated 20.01.2017, passed

by Ld. Sub-Divisional Judicial Magistrate, Rohtas at Sasaram in

Criminal Complaint bearing No. 357 (c) of 2016, whereby

cognizance of offence punishable under Section 498-A of the

Indian Penal Code and Section 4 of the Dowry Prohibition Act

has been taken against the petitioner-husband.

2. I heard Ld. Counsel for the petitioner and Ld. APP

for the State. However, nobody is present on behalf of the

complainant-wife, despite valid service of notice.



3. Ld. Counsel for the petitioner submits that the petitioner is innocent and has falsely been implicated in this case. He further submits that as per the complaint and statements of the witnesses examined during enquiry under Section 200 Cr.PC, no prima facie case is made out under Section 498-A of the Indian Penal Code and Section 4 of the Dowry Prohibition Act. He further submits that on the same set of material, the parents, brother and sister of the petitioner have been exonerated.

4. However, Ld. APP for the State defends the impugned order submitting that there is no illegality in the impugned order as there is sufficient material against the petitioner showing prima facie case of offence punishable under Section 498-A of the Indian Penal Code and Section 4 of the Dowry Prohibition Act, because there is clear allegation of demand of dowry and torturing on account of non-fulfillment of the same.

5. He further submits that it is settled principle of law that at the stage of taking cognizance, only prima facie case is required to be made out. Hence, there is no illegality or infirmity in the impugned order and the present petition is liable to be dismissed.



6. I considered the submission advanced by both the parties and perused the materials on record.

7. I find that in the complaint and statements made by the complainant and her witnesses during enquiry under Section 200 Cr.PC, there is clear allegation of demand of dowry by the husband/petitioner and on account of non-fulfillment of the same, the complainant-wife has been subjected to torture and cruelty. In such situation, there is sufficient material to take cognizance of offence punishable under Section 498-A of the Indian Penal Code and Section 4 of Dowry Prohibition Act and hence, there is no illegality or infirmity in the impugned order.

8. The petitioner, who is husband of the complainant, cannot claim parity with his family members against whom cognizance has not been taken by learned Court below.

9. As such, the present petition is bereft of any merit and substance. Accordingly, it is dismissed.

(Jitendra Kumar, J.)

ravishankar/S.Ali

U		T	
---	--	---	--

